

## **REMARKS**

### **Restriction**

The Examiner has required restriction to one of the following inventions under 35 U.S.C. § 121:

### **Species Election**

Applicant is required to elect a specific anti-CD2 antibody or a fusion protein such as those listed in claims 22-25. Applicant is further required to elect a single disclosed species of an additional agent wherein the additional agent comprises:

- i. An immunomodulatory agent;
- ii. A dermatological agent;
- iii. An anti-angiogenic agent; or
- iv. An inflammatory agent.

Further:

a) If i) is elected, Applicant is required to elect a single disclosed sub-species of an immunomodulatory agent such as recited in claims 44-46;

b) if ii) is elected, Applicant is required to elect a single disclosed sub-species of a dermatological agent such as recited in claims 41-43;

c) if iii) is elected, Applicant is required to elect a single disclosed sub-species of an anti-angiogenic agent such as recited in claims 62-63; and

d) if iv) is elected, Applicant is required to elect a single disclosed sub-species of an inflammatory agent such as recited in claims 64-67.

The Examiner alleges that the application contains claims directed to patentably distinct species of the claimed inventions.

Applicants asserts that, pursuant to MPEP § 803, the subject matter of the individual species can be examined together in a single application without imposing a serious burden on the Examiner. *See* the Manual of Patent Examining Procedure (Eighth Edition, Revision 3, August 2005; “MPEP” § 803), which states in part:

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

Nevertheless, to be fully responsive and to expedite the prosecution of the present application, Applicant hereby elects MEDI-507 as the specific anti-CD2 antibody. Applicant hereby further elects an immunomodulatory agent as the additional agent, and a T cell receptor modulator as the sub-species of the immunomodulatory agent. Applicant

believes that claims 1, 2, 3, 8, 9, 10, 12-23, 26-28, 31-40, 45, 47-50, 66, 67, and 69-71 read on the elected species.

Attorneys for Applicant retain the right to petition from the restriction requirement under 37 C.F.R. § 1.144.

Should the species restriction be maintained, Applicant, upon the allowance of a generic claim, will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim pursuant to 37 C.F.R. § 1.141.

### **CONCLUSION**

Applicant respectfully requests that the present remarks be made of record in the instant application. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

Respectfully submitted,

Date: April 10, 2006

Margaret B. Brivanlou 40,922  
Margaret B. Brivanlou (Reg. No.)

**JONES DAY**  
222 East 41st Street  
New York, New York 10017  
(212) 326-3939

by:  
*Lynda Nguyen*  
Reg. No. 54,338